

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RICKY LEWIS,

Plaintiff,

vs.

HOWARD SKOLNIK, *et al.*,

Defendants.

Case No. 2:09-cv-02393-KJD-GWF

ORDER

Motion for Judicial Notice (#62);
Counter-motion to Strike Motion #62
(#64)

This matter comes before the Court on Plaintiff's Motion for Judicial Notice (#62), filed on March 29, 2013. The remaining defendants, Gregory Cox and Lavert Taylor ("Defendants"), filed a Response (#63) and Counter-motion to Strike (#64) on April 15, 2013.

Plaintiff's Complaint alleges Defendants unconstitutionally denied him kosher meals while he was incarcerated by the State of Nevada. In his Motion (#62), Plaintiff seeks judicial notice of a written offer of settlement Plaintiff sent Defendants on March 25, 2013. Under Federal Rule of Evidence 201(a), courts may take judicial notice of an adjudicative fact. Courts may only judicially notice a fact that is not subject to reasonable dispute because it either "is generally known within the trial court's territorial jurisdiction" or "can be accurately and readily determined from a source whose accuracy cannot reasonably be questioned." *See* Fed. R. Evid. 201(b)(1)-(2). Offers of settlement are generally not admissible under Federal Rule of Evidence 408(a). *See SCD RMA, LLC v. Farsighted Enterprises, Inc.*, 591 F.Supp.2d 1131, 1135 n. 3 (D. Hawaii 2008). Rule 408(a) favors the settlement of disputes by allowing the parties to be candid "without fear that their conduct or statements will later be used against them when proving liability, invalidity, or amount of a claim." *Sterling Sav. Bank v. Citadel Development Co., Inc.*, 656 F.Supp.2d 1248, 1255 (D.

1 Oregon 2009). The Court finds Plaintiff's settlement offer is not judicially noticeable under Rule
2 of Evidence 201(b). Accordingly,

3 **IT IS HEREBY ORDERED** that Plaintiff's Motion for Judicial Notice (#62) is **denied**.

4 **IT IS FURTHER ORDERED** that, the Court's having denied Plaintiff's Motion (#62),
5 Defendants' Counter-motion (#64) to strike Plaintiff's Motion for Judicial Notice is **denied** as
6 moot.

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8 DATED this 16th day of April, 2013.

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11 GEORGE FOLEY, JR.
12 United States Magistrate Judge
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